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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/504,343	02/14/2000	Brent C. Parent	65,678-0011(DCCIE 5298)	7770
10/29/759002/28/2008 RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE SUITE 140 BLOOMFIELD HILLS, MI 48304-0610				
EXAMINER MURDOUGH, JOSHUA A				
ART UNIT		PAPER NUMBER		
3621				
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02/28/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/504,343

**Applicant(s)**

PARENT ET AL.

**Examiner**

JOSHUA MURDOUGH

**Art Unit**

3621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4-14, 16-18, 20 and 21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 4-13 is/are allowed.
- 6) ☐ Claim(s) 14, 16-18, 20 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Acknowledgements***

1. The Examiner for this application has changed. Please indicate the Examiner of record as Examiner Joshua Murdough in any further correspondence.
2. The Examiner acknowledges the Board of Patent Appeals and Interferences ("Board") decision mailed on 26 September 2007 ("2007 Board Decision").
3. In response to the 2007 Board Decision, Applicants' amendment received 26 November 2007 is acknowledged. The amendment has been entered.
4. The Paper No. provided in the upper right of this page is for reference purposes only.
5. Claims 1, 4-14, 16-18, 20, and 21 are currently pending.

### ***Claim Objections***

6. Claim 20 is objected to because of the following informalities:
7. Applicants amended the claim to depend from itself. The Examiner believes this was a typographical error and intended to have the claim depend from claim 18. The Examiner has examined the claim using this interpretation. Appropriate correction is required.

### ***Claim Rejections - 35 USC §103***

8. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14, 16-18, 20, and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Berent (U.S. 5,774,873) in view of Applicants' Admitted Prior Art. As to claim 14, Berent shows an electronic system for establishing a virtual rental fleet of assets comprising:

- a. a fleet module responsive to input data provided by a first user for generating asset specification data associated with an asset (inherent, the data in the relational database on the SQL server 9 had to get there somehow; Columns 4-5, lines 66-1);
- b. a bid definition module responsive to further input data provided by said first user configured to generate a bid definition defining parameters associated with a transaction contemplated for said asset (inherent, bid information is shown as being accessible through the system, therefore it must have been input; Column 9, lines 33-36);
- c. said bid definition module being further configured to associate said bid definition with said asset specification data to thereby define an asset profile that is stored in a market database (Column 9, lines 29-33);
- d. a market search module configured to search said market database based on search parameters specified by a second user (Abstract);
- e. said market search module being further configured to generate an identification of assets according to said search parameters (Figure 3B), and display to said second user at least a portion of a said asset specification data for one of said identified assets (Column 9, lines 29-33);
- f. a bid module (Figure 6E) configured to allow said second user to select one of said identified assets for placement of a bid thereon (Figure 6A), said bid module being

further configured to provide transaction options to said second user in accordance with said bid definition (Column 9, lines 1-9);

g. said bid module being further configured to generate a bid history for said first user including a detail of said bid (Abstract) and to allow said first user to complete the transaction contemplated by said bid (Column 9, lines 56-59); and

h. a communications interface for facilitating electronic remote access of said system by said second user (Column 8, lines 56-60).

10. Berent does not expressly show: maintenance history data; and the transaction is a rental transaction.

As discussed in the 2007 Board Decision, Applicants have already admitted that it was known to include maintenance information to a potential buyer (Specification, page 3, lines 19-23). Furthermore, it was known that automobiles can be bought rented or leased (Board Decision). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Berent to allow for a rental transaction with maintenance history data in order to automate the known practices in the field. Moreover, one of ordinary skill in the art recognizes that potential buyers would desire to know past maintenance information in order to become a more informed purchaser or consumer. For example, if the purchasable item has had a significant and long maintenance history, the potential buyer may think twice about consummating the purchase since they may believe the purchasable item is a lemon.

11. As to claim 16, Berent further shows said second user is a first dealer registered with said system (Column 1, lines 14-34).

12. As to claim 17, Berent further shows said first user is a second dealer registered with the system (Column 1, lines 14-34).

13. As to claim 18, Berent shows a method of consigning an asset on an electronic market for rental, comprising the steps of:

(A) generating asset specification data associated with an asset using input data from a first user of the electronic market asset (inherent, the data in the relational database on the SQL server 9 had to get there somehow; Columns 4-5, lines 66-1);

(B) generating a bid definition defining parameters associated with a transaction of the asset using farther input data from the first user (inherent, bid information is shown as being accessible through the system, therefore it must have been input; Column 9, lines 33-36);

(C) storing the asset specification data and the bid definition together in an asset provide in a market database (Column 9, lines 29-33);

(D) searching the market database based on search parameters specified by a second user (Figure 3B) and displaying to the second user at least a portion of the asset specification data (Column 9, lines 29-33) wherein the second user is registered as a dealer (Column 1, lines 14-34);

(E) providing options to the second user based on the bid definition (Column 9, lines 1-9); and receiving, through a global computer network, a bid from the second user for a transaction (Column 8, lines 56-60).

14. Berent does not expressly show: maintenance history data; and the transaction is a rental transaction. As discussed in the 2007 Board Decision, Applicants admitted that it was known to include maintenance information to a potential buyer (Specification, page 3, lines 19-23).

Furthermore, it was known that automobiles can be bought rented or leased (See 2007 Board Decision). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Berent to allow for a rental transaction with maintenance history data in order to automate the known practices in the field.

15. As to claim 20, Berent further shows: registering the first user as a dealer (Column 1, lines 14-34).

16. As to claim 21, Berent further shows receiving an acceptance of the bid from the first user (Column 9, lines 56-60); and closing the transaction specified by the bid (Column 9, lines 56-60).

#### ***Allowable Subject Matter***

17. Claims 1 and 4-13 are allowed.

#### ***Claim Interpretations***

18. Since Applicants did not seasonably traverse the Official Notice statement as stated in the 2007 Board Decision (see *e.g.* Page 11, Paragraph 2 of the 2007 Board Decision), the Official Notice statement(s) are taken to be admitted prior art. See MPEP §2144.03.

#### ***Conclusion***

19. Applicants' representative, Richard S. MacMillian (Reg. 30,085), was contacted telephonically on 20 February 2008 and given the opportunity to cancel the above rejected claims in order to pass this application to issue. Applicants' Representative respectfully declined.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Blackwell (Remarketing of Autos) discusses the sale of used vehicles through an auction.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

J. M.  
Examiner, Art Unit 3621

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621